



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 09/28/04

AGENDA ITEM 3

WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT:** Adoption of an Ordinance Adding Article 18 to Chapter 10 of the Hayward Municipal Code, Establishing Provisions for Surface Mining and Reclamation

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached Ordinance.

**BACKGROUND:**

The ordinance was introduced at the September 21, 2004, meeting of the City Council with the following vote:

AYES:	Council Members:	Jimenez, Halliday, Ward, Dowling, Henson
	Mayor:	Cooper
NOES:	Council Members:	None
ABSENT:	Council Members:	Quirk
ABSTAIN:	Council Members:	None

The ordinance was published in the Hayward Daily Review on September 25, 2004. Adoption at this time is therefore appropriate.

Prepared by:

  
Angelina Reyes, City Clerk

Approved by:

  
Jesús Armas, City Manager

Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY  
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE ADDING ARTICLE 18 TO CHAPTER 10 OF  
THE HAYWARD MUNICIPAL CODE, ESTABLISHING  
PROVISIONS FOR SURFACE MINING AND RECLAMATION

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS AND PURPOSE. The City of Hayward recognizes that the extraction of minerals benefits the economic well-being of the City, region and needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The City also recognizes that surface mining within the City occurs in a diverse, established, urban environment, which presents unique health, safety and welfare issues where geologic, topographic, climatic, biological, and other conditions are significantly different than in less urbanized areas. Therefore, reclamation operations and the applicable specifications, inspections, reporting, and monitoring must be appropriate to the surrounding conditions.

The purpose and intent of this article is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- (a) Adverse environmental effects are prevented or minimized in accordance with CEQA and other applicable requirements and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses that will enhance the community;
- (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment; and
- (c) Residual hazards to the public health and safety are eliminated.

Section 2. Article 18 of Chapter 10 of the Hayward Municipal Code entitled "Surface Mining and Reclamation" is hereby added, as set forth below.

Chapter 10 Article 18, Surface Mining and Reclamation

Sections:

- 10-18.01 Definitions
- 10-18.02 Incorporation by Reference
- 10-18.03 Conditional Use Permit and Reclamation Plan Required
- 10-18.04 Exceptions
- 10-18.05 Existing Operations
- 10-18.06 Process

- 10-18.07 Standards for Reclamation
- 10-18.08 Statement of Responsibility
- 10-18.09 Findings for Approval
- 10-18.10 Financial Assurances
- 10-18.11 Interim Management Plans
- 10-18.12 Annual Report Requirements
- 10-18.13 Inspections
- 10-18.14 Violations and Penalties
- 10-18.15 Appeals
- 10-18.16 Fees
- 10-18.17 Mineral Resource Protection

Section 3. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 4.EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after its adoption.

Introduced at a regular meeting of the Hayward City Council held September 21, 2004, the above-entitled ordinance was introduced by Council Member Ward.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on September 28, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: September 25, 2004

Angelina Reyes, City Clerk  
City of Hayward